
SUBSIDIARY LEGISLATION

Mining (Prospecting and Exploration for Minerals) Regulations 2021

(No. OF 2021)

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Mining (Prospecting and Exploration for Minerals) Regulations 2021

(No. OF 2021)

(made: 2021)

(commencement: on publication)

(published: 2021)

The Secretary of State having approved a draft of these Regulations in accordance with section 12(1) of the Mining Ordinance 2005 (“**the Ordinance**”) on [DATE] 2021, I make these Regulations under sections 9, 12 and 84 of the Ordinance on the advice of Executive Council.

PART 1 - INTRODUCTORY

1. Title

These Regulations are the Mining (Prospecting and Exploration for Minerals) Regulations 2021.

2. Commencement

These Regulations come into force on publication in the *Gazette*.

3. Purpose

These Regulations provide for the areas for which licences for prospecting or exploration for minerals may be granted, applications for such licences and the model clauses to be incorporated in such licences.

4. Interpretation

In these Regulations —

“**licence**” means a licence for prospecting or exploration for minerals;

“**licence block**” has the meaning in regulation 5; and

“**mineral**” does not include stone, flint, chalk, gravel, sand or calcified seaweed.

5. Licence blocks

A licence block is an area of land identified by reference to the coordinates for lines of latitude and longitude forming the boundaries of the block running from West to East and North to South respectively in accordance with the map in Schedule 1.

PART 2 – PROSPECTING AND EXPLORATION LICENCES

6. Applications

- (1) An application for a licence for prospecting or exploration for minerals must be made to the Director in accordance with arrangements published by notice in the *Gazette* from time to time.
- (2) An application may relate to one or more licence blocks or parts of licence blocks.
- (3) The fee payable to the Director for each application is £10,000.
- (4) The applicant must produce originals of any copy documents provided with the application if requested to do so.

7. Technical advice

The Governor may seek advice about any aspect of an application for a licence from a person who has technical expertise that is relevant to the particular issue on which advice is sought.

8. Determination

- (1) The Governor must not issue a licence unless —
 - (a) the application is submitted in accordance with regulation 6 and the fee for the application has been paid in full;
 - (b) the applicant has provided any additional information requested under section 9(2) of the Ordinance;
 - (c) the requirements of sections 11(2)(a) and (5) and 13(1) of the Ordinance are met;
 - (d) any security required under section 13(2) of the Ordinance has been provided; and
 - (e) the information provided is adequate to enable the Governor to comply with section 14(1) of the Ordinance.
- (2) If minded to issue a licence, the Governor must give consideration to whether any requirements should be imposed under section 13(3) of the Ordinance relating to restoration of the land in the licence area.

9. Model clauses

- (1) Schedule 2 sets out the model clauses that are incorporated in a licence for prospecting for minerals.
- (2) Schedule 3 sets out the model clauses that are incorporated in a licence for exploration for minerals.

10. Annual fee

(1) A licensee must pay to the Director during the term of the licence in respect of each licence block or part block included in the licence such sum as may be determined by the Director from time to time and published in the *Gazette*.

(2) The fee is payable annually in advance.

(3) The first payment of the fee is due on the date the licence is issued and subsequent payments are due on the anniversary of that date for the remainder of the term of the licence.

11. Content of licence

The licence must include the following information —

- (a) the name of, and the address and other contact details for, the licensee;
- (b) whether it is a licence for prospecting for minerals or a licence for exploration for minerals and in either case the mineral to which it relates;
- (c) the licence blocks or parts of blocks to which it relates;
- (d) the term for which it is issued;
- (e) the extent to which the model clauses are expressly excluded or otherwise modified, in accordance with section 11(4) of the Ordinance;
- (f) the programme of work agreed between the Director and the licensee;
- (g) details of any security requested;
- (h) details of any requirements imposed under section 13(3) of the Ordinance; and
- (i) the amount of the annual fee payable on the issue of the licence.

12. Refusal of applications etc.

The Director must inform the applicant of the reasons for the refusal of an application for a licence in writing.

PART 3 – OFFENCES AND OTHER MATTERS

13. Offences

(1) A person who intentionally or recklessly gives false or misleading information in relation to an application for a licence or a request to vary a licence or extend an exploration licence under section 11 commits an offence.

(2) It is an offence to fail to comply with —

- (a) any condition in a licence or a model clause (including a model clause that has been modified) that applies to the licence; or
- (b) any requirement under section 13 of the Ordinance relating to restoration of the land and the carrying out of remedial or improvement works in the licence area.

Penalty: A fine not exceeding the maximum of level 5 on the standard scale or a term of imprisonment not exceeding three months.

14. Revocation

(1) The Director may revoke a licence on notice, if the licensee or any other person on the licensee's behalf, —

- (a) with a view to procuring the issue of the licence, a variation to a licence or an extension of a licence for exploration for minerals, gave false or misleading information or withheld information which was material in relation to the issue variation or extension (as the case may be) of the licence; or
- (b) fails to comply with —
 - (i) any condition or requirement in a licence or of any model clause (including a model clause that has been modified) that has not been expressly excluded from the licence; or
 - (ii) the Ordinance.

(2) The Director must give notice of revocation of a licence to the licensee in writing, including the reasons for the decision.

(3) Revocation of a licence has effect immediately on the giving of notice of revocation.

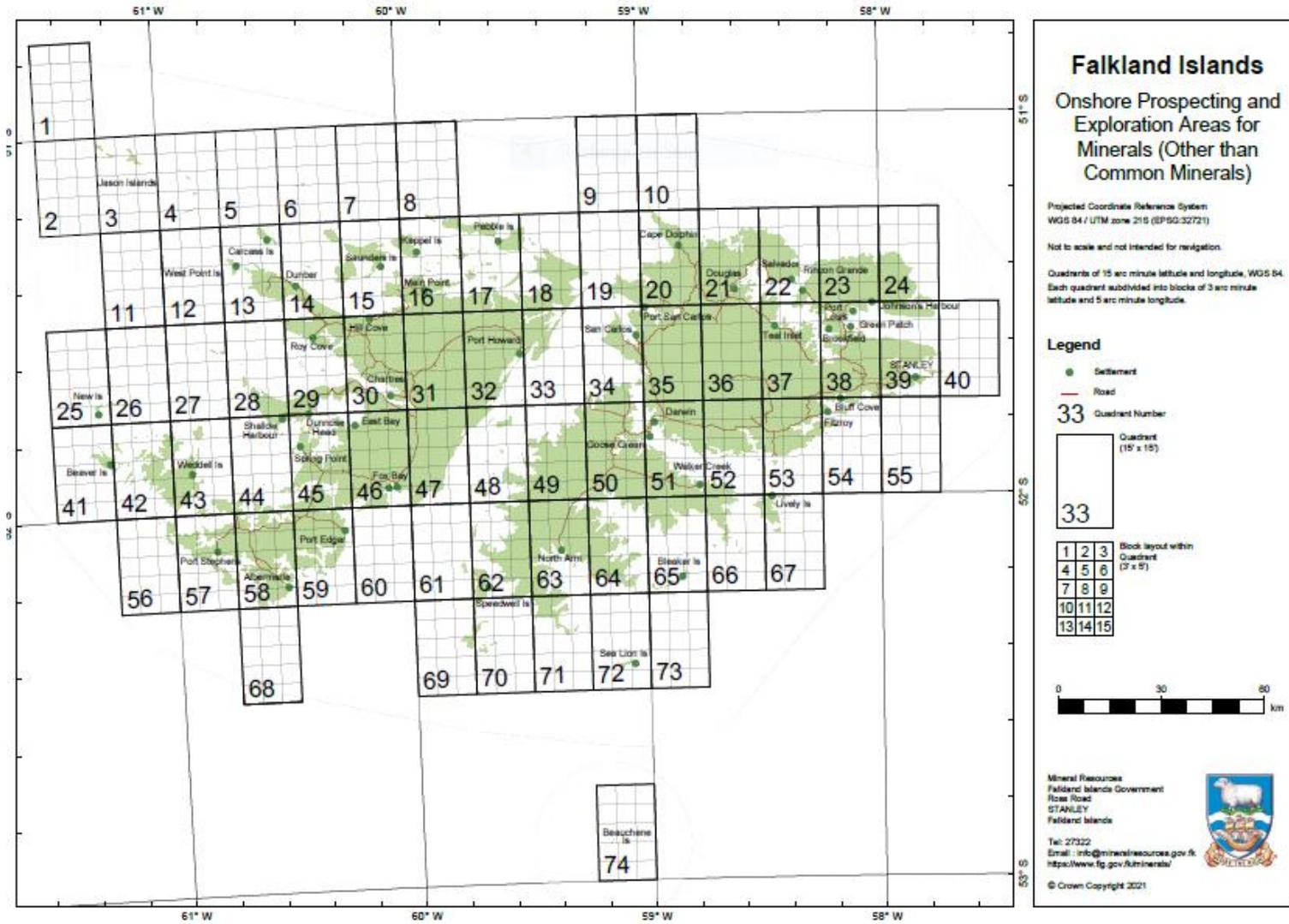
15. Register of licences

(1) The Director must maintain a register of licences issued under these Regulations that is open for inspection by the public during normal business hours at the office of the Director.

(2) The register must include the information included in the licence under paragraphs (a) to (d) and (h) of regulation 1.

SCHEDULE 1 – MAP OF LICENCE BLOCKS

regulation 5(1)



SCHEDULE 2 – MODEL CLAUSES FOR LICENCE TO PROSPECT FOR MINERALS

regulation 9(1)

1. Local Agent

Before commencing the programme of work authorised by the licence, the licensee must appoint an agent. The agent must be resident in the Falkland Islands for the duration of the work programme and is the point of contact and the person on whom notices can be served on behalf of the licensee. The agent's address and full contact details must be provided to the Director prior to the commencement of the programme of work, and updated within one week following any change.

2. Obligation to Carry Out Work Programme

The licensee must carry out expediently and with due diligence the programme of work agreed between the Director and the licensee as set out in the licence. The work programme may be varied in agreement with the Director.

3. Conduct of Prospecting Work Programme

(1) The licensee must execute the work programme authorised by the licence in a proper and workmanlike manner and in accordance with relevant industry good practice. All works, buildings, vehicles and other equipment used in connection with the work programme must be kept in good repair and condition.

(2) The licensee must ensure the health, safety and welfare of —

- (a) persons employed to carry out the work programme; and
- (b) the public.

The licensee must comply with any instructions given from time to time by the Director in relation to health and safety or environmental protection.

4. Progress Reports

The licensee must submit updated plans, programmes of work, progress reports, technical reports and investigations to the Director as required.

5. Limitations on Work

The licensee must not undertake works or take mineral samples except to the extent that it is reasonably necessary for the purpose of ascertaining the existence, character, extent or value of those minerals and must not sell or otherwise dispose of any mineral samples obtained except for the purpose of ascertaining their character and/or value.

6. Records of Minerals Extracted

The licensee must keep records of the quantities of minerals extracted, sold or disposed of in a form as required by the Director. The records and supporting evidence must be available for inspection by the Director or a person duly authorised by the Director during normal office hours and copies must be provided if requested during the term of the licence and for a period of 12 months after the expiry of the licence unless otherwise agreed with the Director.

7. Findings on Minerals

The licensee must keep copies of all reports, interpretations, maps and other technical data obtained on all prospecting work and provide copies of all such documents to the Director within three months of them being prepared. In addition, the licensee must keep and submit to Director within three months all information obtained in relation to the existence, location, character, extent and value of all minerals in the land covered by the licence and the results of any analysis, test, trial or experiment carried out on the minerals.

8. Confidentiality of Information

The Director will keep confidential all information provided by the licensee under conditions 6 and 7 above for a period of 5 years from receipt of the data or at the expiry of the licence whichever is the sooner, except as may be required under any legislation or order of the court or other competent authority, or to the extent that it is necessary to share the data with persons appointed to provide technical expertise to the Falkland Islands Government. After the period specified, the Director may make all of the information publicly available in whatever form and by such means as they think fit.

9. Director's Rights of Access

The licensee must allow any person duly authorised by the Director to enter and inspect the licensee's works, buildings, vehicles and other equipment, materials, records and extracted minerals at all reasonable times.

10. Indemnity

The licensee must at all times keep the Falkland Islands Government indemnified against all actions, proceedings, costs, charges, claims and demands whatsoever and howsoever arising which may be brought by any third party by reason of any matter or thing done or purported to have been done by or on behalf of the licensee or any breach of licence condition.

11. Insurance

The licensee must have in place adequate levels of public liability insurance as determined by the Director, and such other insurances as may reasonably be required by the Director and provide evidence of those policies on request.

12. Environmental Impact

(1) Before commencing activities under the work programme the licensee must carry out an assessment of the potential environmental impacts and have a management plan setting out the

steps they will take to minimise, manage/remedy those impacts and submit these to the Director for approval. The licensee must carry out those steps and must report in line with the management plan.

(2) The licensee must carry out the work programme in such manner that minimises harm to the environment and must report in line with the management plan.

(3) The licensee must take such steps as are reasonably necessary to remediate any harm or adverse environmental impact caused in carrying out the work programme and must report to the Director in line with the management plan.

13. Removal of Equipment

The licensee must remove and properly dispose of all equipment, vehicles, buildings and waste materials, used, placed or erected on the licensed area in connection with carrying out the work programme before the date on which the licence expires.

14. Payment of Fees

The licensee must pay to Director an annual licence fee as determined by the Director and published in the *Gazette* and in a newspaper circulating in the Falkland Islands in respect of each licensed block area or any part of a block area if a part block is licensed. The fee is due annually at the commencement of each year starting from the date the licence is granted. The licensee must pay on or before the due date all fees, charges, taxes and other payments that are or may become payable in connection with the licence.

15. Statutory Compliance

The licensee must comply with the Mining Ordinance 2005 and all other applicable legal requirements and the requirements of the Director relating to the exercise of the rights granted by the licence.

16. Governing Law

The law applying to this licence is the law of the Falkland Islands.

SCHEDULE 3 – MODEL CLAUSES FOR LICENCE FOR EXPLORATION FOR MINERALS

regulation 9(2)

1. Local Agent

Before commencing the programme of work authorised by the licence, the licensee must appoint an agent. The agent must be resident in the Falkland Islands for the duration of the work programme and is the point of contact and the person on whom notices can be served on behalf of the licensee. The agent's address and full contact details must be provided to the Director prior to the commencement of the programme of work, and updated within one week following any change.

2. Obligation to Carry Out Work Programme

The licensee must carry out expediently and with due diligence the programme of work agreed between the Director and the licensee as set out in the licence. The work programme may be varied in agreement with the Director.

3. Conduct of Exploration Work Programme

(1) The licensee must execute the work programme authorised by the licence in a proper and workmanlike manner and in accordance with relevant industry good practice. All works, buildings, vehicles and other equipment used in connection with the work programme must be kept in good repair and condition.

(2) The licensee must comply with such standards as may be set by the Director to ensure that the work is properly carried out and to ensure the health safety and welfare of persons employed to carry out the work programme. The company must comply with any instructions given from time to time by the Director in relation to health and safety or environmental protection.

4. Progress Reports

The licensee will submit updated plans, programmes of work, progress reports, technical reports and investigations to the Director as required.

5. Limitations of Work

(1) The licensee must not undertake works or extract minerals except to the extent that it is reasonably necessary for the purpose of ascertaining the existence, character, extent or value of those minerals, or evaluating the presence of minerals for the purpose of ascertaining whether they can be mined.

(2) The licensee must not sell or otherwise dispose of those minerals except for the purpose of ascertaining their character and/or value or carrying out an evaluation to ascertain whether they can be mined.

6. Records of Minerals Extracted

The licensee must keep records of the quantities of minerals extracted, sold or disposed of in a form as required by the Director. The records and supporting evidence must be available for inspection by the Director or a person duly authorised by the Director during normal office hours and copies must be provided if requested during the term of the Licence and for a period of 12 months after the expiry of the licence unless otherwise agreed with the Director.

7. Findings on Minerals

(1) The licensee must submit to the Director a report on all works undertaken and provide copies of all prospecting, assessment and evaluation data.

(2) The licensee must keep copies of all reports, interpretations, maps and other technical data obtained on all exploration work and provide copies of all such documents to the Director within three months of them being prepared. In addition, the licensee must keep and submit to the Director within three months all information obtained in relation to the existence, location, character, extent and value of all minerals in the land covered by the licence and the results of any analysis, test, trial or experiment carried out on the minerals.

8. Confidentiality of Information

The Director will keep confidential all information provided by the licensee under conditions 6 and 7 above for a period of 5 years from receipt of the data or at the expiry of the licence whichever is the sooner, except as may be required under any legislation or order of the court or other competent authority, or to the extent that it is necessary to share the data with persons appointed to provide technical expertise to the Falkland Islands Government. After the period specified, the Director may make all of the information publicly available in whatever form and by such means as they think fit.

9. Director's Rights of Access

The licensee must allow any person duly authorised by the Director to enter and inspect the licensee's works, buildings, vehicles and other equipment, materials, records and extracted minerals at all reasonable times.

10. Indemnity

The licensee must at all times keep the Falkland Islands Government indemnified against all actions, proceedings, costs, charges, claims and demands whatsoever and howsoever arising which may be brought by any third party by reason of any matter or thing done or purported to have been done by or on behalf of the licensee or any breach of licence condition.

11. Insurance

The licensee must have in place adequate levels of public liability insurance, and such other insurances as may reasonably be required by the Director and provide evidence of those policies on request.

12. Environmental Impact

(1) Before commencing activities under the work programme the licensee must carry out an assessment of the potential environmental impacts and the management plan they will implement to manage/remedy those impacts, including the management and disposal of waste and spoil. They must submit an environmental statement and environmental management plan to the Director to review.

(2) The Director may consult with interested parties on the environmental impact statement and management plan and may require the licensee to carry out further environmental assessment, issue a revised environmental impact statement and amend the environmental management plan before approval is given to the licensee to commence activities.

(3) The licensee must carry out the work programme in such manner that minimises harm to the environment.

(4) The licensee must implement and report to the Director on the implementation of the environmental management plan.

(5) The licensee must take such other steps as are reasonably necessary to remediate any harm caused in carrying out the work programme and must report to the Director in line with the management plan.

13. Removal of Equipment

The licensee must remove and properly dispose of all equipment, vehicles, buildings and waste materials, used, placed or erected on the licensed area in connection with carrying out the work programme before the date on which the licence expires.

14. Payment of Fees

(1) The licensee must pay to Director an annual licence fee as determined by the Director and published in the *Gazette* and in a newspaper circulating in the Falkland Islands in respect of each licensed block area or any part of a block area if a part block is licensed. The fee is due annually at the commencement of each year starting from the date the licence is granted.

(2) The licensee must pay on or before the due date all fees, charges, taxes and other payments that are or may become payable in connection with the licence.

15. Statutory Compliance

The licensee must comply with the Mining Ordinance 2005 and all other applicable legal requirements and the requirements of the Director relating to the exercise of the rights granted by the licence.

16. Governing Law

The law applying to this licence is the law of the Falkland Islands.

N. J. PHILLIPS C.B.E.,
Governor.

EXPLANATORY NOTE
(not forming part of these Regulations)

These Regulations are made under the Mining Ordinance 2005 for the purpose of enabling licences to be issued for prospecting and exploration for gold and other minerals, not including stone, flint, chalk, gravel, sand or calcified seaweed (*regulation 4*).

Part 1 deals with introductory matters, including definitions and provides for the determination of the boundaries of licence blocks, being areas of land to which a licence relates (*regulation 5 and Schedule 1*).

Part 2 makes provision for applying for a licence for prospecting and exploration for minerals (*regulation 6*) and sets out the approach the Director of Mineral Resources should take to consider the application and the requirements that must be met before a licence can be issued (*regulations 7 and 8*), including consideration of requirements relating to land restoration, including remedial or improvement works where prospecting or exploration for minerals has any adverse effect on the environment.

Regulations 9 to 11 make provision for model clauses to be included in licences (set out in *Schedule 2* for licences for prospecting and in *Schedule 3* for licences for exploration), determination of the fee payable annually during the term of the licence, and the information to be included in a licence. If an application for a licence is refused, the applicant must be informed in writing of the reasons for refusal (*regulation 12*).

Part 3 deals with offences and other matters. *Regulation 13* provides that it is an offence to give false information in connection with a licence application or to breach a condition or requirement in a licence. *Regulation 14* enables the Director to revoke a licence in those circumstances. *Regulation 15* establishes a register of licences to be maintained by the Director and open for inspection by the public during normal business hours.